

Memorandum Opinion and Order
—U.S. District Court

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APPENDIX

IN THE UNITED STATES DISTRICT COURT
For the Eastern District of Pennsylvania

C.A. No. 81-5003

EVANGELINE COLEMAN, et al.

vs.

HELEN O'BANNON, et al.

MEMORANDUM OPINION AND ORDER

WEINER, J.

February 11, 1982

This action was brought by the plaintiffs seeking a permanent injunction prohibiting the Secretary of Pennsylvania's Department of Public Welfare ("DPW") from denying supplemental benefits under the Aid to Families with Dependent Children ("AFDC") program to applicants and recipients whose gross incomes exceed 150% of Pennsylvania's payment level, but do not exceed 150% of Pennsylvania's actual standard of need.

The parties stipulated to the following facts. Plaintiff Evangeline Coleman ("Coleman") resides in Philadelphia with her three small minor children. Coleman's

gross monthly income from her employment is \$662.20, from which she nets \$525.00 per month after taxes. From that sum, Coleman pays a babysitter \$215.00 per month and \$30.00 per month for carfare to and from work, leaving her a net of \$270.00 per month. Coleman has been receiving a supplemental public assistance benefit from DPW under the AFDC program for herself and her three children. In Philadelphia, the AFDC payment level for a family of four is \$381.00 per month, whereas under the Woodbury¹ standard updated through June 1981, it is \$652.04 per month. Coleman's gross monthly income from employment exceeds \$572.00 which is 150% of the payment level for a family of four in Philadelphia, but does not exceed \$978.05 which is 150% of the updated Woodbury standard. DPW has notified Coleman that her supplemental AFDC payments will be discontinued because her gross income exceeds 150% of Pennsylvania's standard of need.

The plaintiffs argue that Pennsylvania's active "standard of need" is the Woodbury standard as updated by DPW. The defendants on the other hand argue that Pennsylvania's state plan is a formal contract between DPW and the federal Department of Health and Human Services (HHS), and that the Woodbury Standard has never been adopted as part of Pennsylvania's state plan

¹ The Woodbury Standard was developed by a committee chaired by Dr. Mildred Fairchild Woodbury, which was appointed in 1955 by the Secretary of Pennsylvania, Department of Public Assistance (later merged with DPW) to determine the amount a Pennsylvania family needs to maintain a minimum standard of health and decency. See: *Gurley v. Wohlgenuth*, 421 F. Supp. 1337, 1342 n. 13a (1976).

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nor has the state plan ever referred to the Woodbury Standard. Thus, the issue before this court is to determine Pennsylvania's standard of need as that term is used in the Omnibus Budget Reconciliation Act of 1981, (O.B.R.A.), Pub. L. 97-35, Sec. 2303 (August 13, 1981). That act, which amends section 402(a) of the Social Security Act, 42 U.S.C. 602(a), provides that a state plan for aid and services to needy families must:

"(18) provide that no family shall be eligible for aid under the plan for any month, if, for that month, the total income of the family (other than payments under the plan), without application of paragraph (8), exceeds 150 percent of the *State's standard of need* for a family of the same composition." (emphasis added)

The defendants would have this court treat its plan as approved by HHS, as a contract, and then apply contract law in interpreting the plan. This argument ignores the fact that a state may not promulgate a plan contrary to federal requirements. *Rosado v. Wyman*, 397 U.S. 397, 420-421 (1970). They claim they have not done so because HSS has adopted its State Plan.

Defendants concede that DPW has never explicitly stated that its standard of need and payment level are one and the same. [Defendants' Memorandum in Opposition to Plaintiffs' Request for a Permanent Injunction, 6.] Nevertheless, they maintain that officials of HHS, who administer the AFDC program, are of the opinion that the standard of need in Pennsylvania and the payment level are equal. Yet, at a preliminary hearing held on January 6, 1981, one such official, Robert Clifford, testified only

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that states may establish a standard of need which differs from their level of payment except that states will violate Section 602(a) (23) of the Social Security Act, 42 U.S.C.A. §602(a) (23) if the established standard of need, at any time, falls below the level of need set as of July 1, 1969.² At no point did Clifford testify that Pennsylvania's standard of need and level of payment are the same.

Two DPW officials testified at the hearing to the effect that the Woodbury standard has never been incorporated into Pennsylvania's AFDC program. However, neither official offered any documentation to support this assertion.

In addition, defendants state that "[t]o determine what [Pennsylvania's] standard of need is requires simply looking at the plan." [Defendants' Memorandum in Opposition, 10]. However, defendants neither quote nor cite the pertinent provisions of the State Plan. On perusing Pennsylvania's Public Assistance Manual, 55 Pa. Code, §101.1 *et seq.*, we presume that defendants are re-

² 42 U.S.C.A. §602(a) (23) requires that:

"[a] State plan for aid and services to needy families with children must . . . provide that by July 1, 1969, the amounts used by the State to determine the needs of individuals will have been adjusted to reflect fully changes in living costs since such amounts were established, and any maximums that the State imposes on the amount of aid paid to families will have been proportionately adjusted."

We note that, in order to comply with the above provision, DPW raised its level of payment on January 1, 1970, to meet the Woodbury Standard of need. [Defendants' Opposition Memorandum, 5].

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lying on Sections 171.21 and 175.21. Sections 171.21 (a)-(1) and (a) (2) relate to need and amount of assistance under the AFDC program and read as follows:

"(a) *Standard of need.* Individual standard of need determinations will be made in accordance with the following:

(1) A person, or group applying together for assistance, is in need if income and other available resources as defined in this subpart are less than the family size allowance as established by regulation. The difference will be the amount of the assistance grant.

(2) The objective of this chapter is that the person or group shall have the amount of assistance needed for living requirements by assistance standards."

Section 175.21 (a) sets forth the following policy with respect to AFDC allowances and benefits:

"[T]he allowances of the Department will recognize certain amounts by family size that persons require to meet basic living requirements. The family size allowances will take into account costs for food, clothing, incidentals, shelter and utilities. These family size allowances will be used in computing the grant."

Read together, these provisions could conceivably be construed as establishing the level of payment to meet the standard of need. However, we decline to so construe them in light of the numerous explicit references in DPW's own documents to the Woodbury Standard as Pennsylvania's standard of need.

For example, in the Fiscal Year 1981-82 DPW Budget Request, the report states in reference to the Commonwealth's cash grant level, that "[b]ased on the June, 1980 consumer price index, assistance grants were then 63% of the Woodbury Standard, a standard devised over 20 years ago. If enacted, the Administration's Welfare Reform Plan will eliminate the Woodbury Standard. . . ." [Plaintiff's Exhibit 29].

Moreover, a 1977 DPW publication titled "Poverty in Pennsylvania: the Challenge" devotes an entire chapter to the Woodbury Standard. In this chapter, the Woodbury Standard is described as the cost of a market basket of those items necessary for minimal maintenance by public assistance families. This description is followed by the statement that "[t]he Department of Public Welfare has based cash assistance grants on this 'Woodbury Standard' since 1957." [Plaintiff's Exhibit 2, p. 26].

In addition, the Pennsylvania Governor's Executive budget, for every fiscal year since 1974, has referred to the Woodbury Standard as "the Commonwealth's defined minimally acceptable standard of living." [Plaintiff's Exhibit 1, 22-28].

While it is far from clear how the current payment level was devised from the Woodbury Standard, Woodbury nevertheless appears to be the standard of need from which the Commonwealth measures its payments. See, *Gurley v. Wohlgemuth*, 421 F. Supp. 1337, F/N 13a (1976).

The United States Supreme Court has defined "standard of need" as the amount deemed necessary to provide for essential needs, such as food, clothing, and shelter.

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Quern v. Mandley, 436 U.S. 725, 737 (1978). The Woodbury Standard being the only computation presented to this court which reflects the items of essential needs, this court can only conclude that the Woodbury Standard is the standard of need for Pennsylvania.

Moreover, this court is unable to determine why DPW semi-annually updates the Woodbury Standard, by applying the Department of Labor's Consumer Price Index to the five major components of the standard, i.e., food, clothing, incidentals, shelter, and utility, if that standard is not the standard of need. Defendants claim that while the Woodbury Standard is used, "other factors [have] been used . . . against which the adequacy of DPW's standard of need/payment could be judged. . . ." [Defendants' Memo, 5]. What these other factors are, defendants do not inform this court.

DPW's argument that the Woodbury standard serves merely as a benchmark by which Pennsylvania's official standard of need is evaluated is strained to say the least. DPW's most recent data show that current payment levels represent only fifty-eight percent of the Woodbury Standard calculated as of June, 1981. [Memorandum in Support of Plaintiffs' Motion for a Temporary Restraining Order and/or Preliminary Injunction, 7; Plaintiffs' Exhibit 30]. In fact, Pennsylvania's level of payment has fallen below the Woodbury Standard during each year since 1970. [Defendants' Opposition Memorandum, 5].

We think it highly unlikely that the discrepancy between the level of payment and Woodbury Standard is explained by the theory that the former more accurately reflects the true standard of need. Instead, the more rea-

sonable explanation is, simply that budgetary constraints have prevented Pennsylvania from establishing a payment level which meets the standard of need.

Our view finds support in DPW's Budget Request for Fiscal Year 1981-1982 which states that the Administration's proposed Welfare Reform Plan will replace the Woodbury Standard with the Lower Budget Standard ("LBS") recently developed by the Department of Labor. As the Woodbury Standard was devised over twenty years ago, the newer LBS is thought to "more accurately reflect[s] the level of assistance needed for a decent standard of living." [Plaintiffs' Exhibit 29, p. 40]. Significantly, the figures represented by the LBS are higher than those reflected by the Woodbury standard. In view of the fact that Pennsylvania's level of payment is considerably lower than both the Woodbury Standard and the LBS, we are unable to accept defendants' contention that the payment level also represents Pennsylvania's official standard of need.

Accordingly, we grant plaintiffs' motion and permanently enjoin defendants from denying supplemental benefits under the AFDC program to otherwise eligible applicants and recipients whose gross incomes exceed 150% of Pennsylvania's payment level but do not exceed 150% of the Woodbury Standard.

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ORDER

February 11, 1982

The defendants are permanently enjoined from denying supplemental benefits under the Aid to Families with Dependent Children Program to otherwise eligible applicants and recipients whose gross incomes do not exceed 150% of the Woodbury Standard.

IT IS SO ORDERED.

(s) Charles R. Weiner
Charles R. Weiner

UNITED STATES COURT OF APPEALS
For the Third Circuit

No. 82-1213

COLEMAN, EVANGELINE, on behalf of herself and all
others similarly situated

vs.

O'BANNON, HELEN, Secretary of Pennsylvania Department of Public Welfare; and STOVALL, DON JOSE, Executive Director of the Philadelphia County Board of Assistance

Helen O'Bannon and Don Jose Stovall

Appellants

*Appeal From the United States District Court for the
Eastern District of Pennsylvania (D.C. Civil No.
81-5003)*

Argued

September 29, 1982

Before: ALDISERT and HIGGINBOTHAM, *Circuit Judges*,
and MEANOR, *District Judge*.*

*Honorable H. Curtis Meanor, of the United States District Court for the District of New Jersey, sitting by designation.

JUDGMENT ORDER

After consideration of all contentions raised by appellants, and for the reasons set forth in the district court opinions by the Honorable Charles R. Weiner, *Coleman v. O'Bannon*, Civ. No. 81-5003 (E.D. Pa. Feb. 12, 1982 and Mar. 17, 1982); it is

ADJUDGED and ORDERED that the judgment of the district court be and is hereby affirmed.

Costs taxed against appellants.

BY THE COURT,

(s) Aldisert

Circuit Judge

Attest:

Sally Mrvos

Sally Mrvos, Clerk

DATED: Sep 30, 1982

UNITED STATES COURT OF APPEALS
For the Third Circuit

No. 82-1213

COLEMAN, EVANGELINE on behalf of herself and all
others similarly situated

v.

O'BANNON, HELEN, Secretary of Pennsylvania Department of Public Welfare; and STOVALL, DON JOSE, Executive Director of the Philadelphia County Board of Assistance

Helen O'Bannon and Don Jose Stovall,

Appellants

SUR PETITION FOR REHEARING

Present: SEITZ, *Chief Judge*, ALDISERT, ADAMS, GIBBONS, HUNTER, WEIS, GARTH, HIGGINBOTHAM, SLOVITER and BECKER, *Circuit Judges*, and MEANOR, *District Judge*.*

The petition for rehearing filed by Helen O'Bannon and Don Jose Stovall, appellants in the above entitled case having been submitted to the judges who participated

*Honorable H. Curtis Meanor, United States District Court for the District of New Jersey, sitting by designation.

Order Denying Rehearing

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in the decision of this court and to all the other available circuit judges of the circuit in regular active service, and no judge who concurred in the decision having asked for rehearing, and a majority of the circuit judges of the circuit in regular active service not having voted for rehearing by the court in banc, the petition for rehearing is denied.

By the Court,

**(s) A. Leon Higginbotham, Jr.
*Circuit Judge***

Dated: Oct 27 1982

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Letter Dated Nov. 9, 1976

DEPARTMENT OF HEALTH, EDUCATION, AND
WELFARE

Region III

3535 Market Street
Philadelphia, Pennsylvania 19101

Nov. 9 1976

Social and Rehabilitation
Service

Mailing Address

P.O. Box 7760

Philadelphia,

Pennsylvania, 19101

Mr. Frank S. Beal, Secretary
State Department of Public Welfare
P. O. Box 2675
Harrisburgh, Pennsylvania 17120

Re: OPC-11 No. 76-27—Simplified State
Plan—filed in binder

Dear Mr. Beal:

Attached is a copy of the approved referenced State
Plan material.

Letter Dated Nov. 9, 1976

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If there are any questions or if additional information is needed regarding this material, please direct your inquiry to:

Mr. John P. Corey
Program Director
P.O. Box 7760
Philadelphia, Pennsylvania 19101
Telephone No. (215) 596-1320

Sincerely,

(s) Barbara P. Pomeroy for
Alwyn L. Carty
Regional Commissioner, SRS

Attachment

Revision: SRS-AT-77-27 (APA)

Sec. 2.3

Page 1

IV-A STATE OF PENNSYLVANIA

Regulation

233.20

2.3 *Need and Amount of Assistance*

per AT 79-30

PART I. Measuring need, Income and Resources

(OFR)

9/7/79

(a) (1)

The State agency, in determining need and amount of assistance in accordance with the requirements of 45 CFR 233.20, takes into consideration any income and resources of any child or relative claiming aid under AFDC, or of any other individual (living in the same house as such child and relative) whose needs are taken into consideration in determining the need of such child or relative, as well as any expenses reasonably attributable to earning such income; except that an individual receiving SSI benefits (as defined in (a)-(1) (ii) of Section 233.20) is not included in the AFDC assistance unit (see also Sec. 2.3, page 2, part B of this State Plan). Statewide policies and procedures for the determination of need and amount of assistance have been established and are applied on an objective and equitable basis.

(1) (ii)

AT-76-177

12/14/76

Submitted

AT-77-27

2/22/77

(a) (1)

(i)

(a) (2)

A. Standard of Assistance

1. There is a Statewide standard of assistance, expressed in money amounts, used for determining need and amount of assistance for applicants and recipients. Any combining of the items of this standard in order to achieve a consolidated standard does not result in a reduction in the content of the standard below that of July 1, 1969. Attachment 2.3-A contains the current standard and the date of implementation of the standard.

(a) (2) 3212
(v) thru
3213

2. Special needs items are specified in the standard of assistance.

☐ No.

☒ Yes. The items which are recognized for all applicants or recipients for whom they are appropriate and the circumstances under which they will be considered are specified in Attachment 2.3-A.

(continued)

TN # 77-12-OIM

Approval Date June 14, 1977

Supersedes

TN # 76-27-OIM

Effective Date July 1, 1976

SECTION 175.21**ALLOWANCES AND BENEFITS**

Effective January 1, 1980

**ALLOWANCES AND BENEFITS PROVISIONS FOR
AFDC/GA****175.21 AFDC/GA ALLOWANCES AND BENEFITS
POLICY**

(a) The allowances of the Department will recognize certain amounts by family size that persons require to meet basic living requirements. The family size allowances will take into account costs for food, clothing, incidentals, shelter, and utilities. These family size allowances will be used in computing the grant.

(b) The Department will also recognize that there are certain special item allowances which certain clients require under special circumstances. These are called "special items" as defined by §175.23(b) (1) of this title (relating to requirements) and are confined to transportation, clothing and personal care items for entry into a rehabilitation center, tuberculosis sanitarium or residential school, hearing aid batteries or maintenance or both, and grants to decrease need for assistance.

**175.22 AFDC/GA ALLOWANCES AND BENEFITS
DEFINITIONS**

The following words and terms, when used in this chapter, shall have the following meanings, unless the context clearly indicates otherwise:

Assistance Unit—Defined in §171.22 of this title (relating to definitions) .

Client—Applicant or recipient. Accordingly, such special need items are to be included, when appropriate, in determining the needs of eligible applicants *when initially authorizing assistance, as well as to clients in determining their ongoing needs.*

Grant Group—Defined in §171.21 of this title (relating to policy) .

Tenant or Tenant-Boarder—A lone person whose rent, or rent and board arrangements with the client are independent of other persons. "Tenant Group" and "Tenant-Boarder Group" mean two or more persons living together as a family normally would and who have a joint rent, or rent and board arrangement.

175.23 AFDC/GA ALLOWANCES AND BENEFITS REQUIREMENTS

(a) *Basic Allowances.* Allowances used in computing the grant will be dependent on the family size and the county. The single statewide standard of assistance of the Commonwealth, expressed in money amounts, will be as follows:

Replacing March 12, 1979

175-3

DPW-OIM-PA MANUAL

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State Regulations

SECTION 175.23(a)

ALLOWANCES AND BENEFITS

EFFECTIVE January 1, 1980

FAMILY SIZE ALLOWANCES

SCHEDULE 1		NUMBER OF PERSONS IN ASSISTANCE UNIT						
		1	2	3	4	5	6	each additional person
		\$181	\$273	\$332	\$395	\$451	\$490	\$58
Bucks	Chester	Lancaster			Montgomery		Pike	

SCHEDULE 2		NUMBER OF PERSONS IN ASSISTANCE UNIT						
		1	2	3	4	5	6	each additional person
		\$172	\$262	\$318	\$381	\$438	\$478	\$58
Adams	Centre	Erie		Monroe		Union		
Allegheny	Columbia	Lackawanna		Montour		Warren		
Berks	Crawford	Lebanon		Northampton		Wayne		
Blair	Cumberland	Lehigh		Philadelphia		Westmoreland		
Bradford	Dauphin	Luzerne		Sullivan		Wyoming		
Butler	Delaware	Lycoming		Susquehanna		York		

SCHEDULE 3		NUMBER OF PERSONS IN ASSISTANCE UNIT						
		1	2	3	4	5	6	each additional person
		\$164	\$253	\$311	\$369	\$424	\$463	\$58
Beaver	Elk	Lawrence		Mifflin		Snyder		
Cameron	Franklin	McKean		Perry		Tioga		
Carbon	Indiana	Mercer		Potter		Venango		
Clinton						Washington		

SCHEDULE 4		NUMBER OF PERSONS IN ASSISTANCE UNIT						
		1	2	3	4	5	6	each additional person
		\$147	\$232	\$290	\$350	\$405	\$440	\$58
Armstrong	Clarion	Forest		Huntingdon		Northumberland		
Bedford	Clearfield	Fulton		Jefferson		Schuylkill		
Cambria	Fayette	Greene		Juniata		Somerset		

Characteristics
of State Plans for

AID TO FAMILIES WITH DEPENDENT CHILDREN

under the
Social Security Act
Title IV-A

and for Guam, Puerto Rico, & Virgin Islands

- OLD AGE ASSISTANCE
- AID TO THE BLIND
- AID TO THE PERMANENTLY
& TOTALLY DISABLED

**UNDER TITLES I, X, XIV, AND XVI (AABD)
OF THE SOCIAL SECURITY ACT**

TABLE C

AMOUNTS FOR ALL BASIC NEEDS, AS DEFINED BY THE STATE IN ITS NEED
STANDARD, AND AMOUNT OF PAYMENT TO A FAMILY WITH NO COUNTABLE INCOME
AFTER APPLICATION OF ANY METHOD OF LIMITING PAYMENT USED BY STATE,
AS OF OCTOBER 1, 1980, 1979, BY STATE

State	Part 1: Family of 2 Persons (1 Needy Adult and 1 Child)		Part 2: Family of 4 Persons (1 Needy Adult and 3 Children)	
	Column 1: State Need Standard for All Basic Needs*	Column 2: Amount of Assistance Payment to a Family With No Income*	Column 1: State Need Standard for All Basic Needs*	Column 2: Amount of Assistance Payment to a Family With No Income*
Alabama	\$144.00	\$ 89.00	\$240.00	\$148.00
Alaska	400.00	400.00	514.00	514.00
Arizona	180.00	156.00	282.00	244.00
Arkansas	193.00	133.00	273.00	188.00
California*	395.00	382.00	591.00	563.00
Colorado	229.00	229.00	351.00	351.00
Connecticut	331.00	331.00	477.00	477.00
Delaware	197.00	197.00	312.00	312.00
D.C.	311.00	225.00	481.00	349.00
Florida	150.00	150.00	230.00	230.00
Georgia	161.00	137.00	227.00	193.00
Hawaii	195.00	195.00	300.00	300.00
Idaho	390.00	390.00	546.00	546.00
Illinois	298.00	224.00	421.00	316.00
Indiana	225.00	225.00	331.00	331.00
Iowa	247.00	195.00	363.00	315.00
Kansas	292.00	292.00	419.00	419.00
Kentucky	265.00	265.00	365.00	365.00
Louisiana	162.00	162.00	235.00	235.00
Maine	289.00	110.00	494.00	188.00
Maryland	307.00	207.00	522.00	352.00
Massachusetts	211.00	211.00	326.00	326.00
Michigan	314.00	314.00	445.00	445.00
Minnesota	361.00	361.00	513.00	513.00
Mississippi	344.00	344.00	486.00	486.00
Missouri	188.00	60.00	252.00	120.00
	250.00	199.00	365.00	290.00

* Effective 1/1/81 payment reduced to: \$374 for 2; \$550 for 4.

(continued)

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Characteristics of State Plans

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Table C (continued)

State	Part 1: Family of 2 Persons (1 Needy Adult and 1 Child)		Part 2: Family of 4 Persons (1 Needy Adult and 3 Children)	
	Column 1: State Need Standard for All Basic Needs*	Column 2: Amount of Assistance Payment to a Family With No Income*	Column 1: State Need Standard for All Basic Needs*	Column 2: Amount of Assistance Payment to a Family With No Income*
Montana	\$193.00	\$193.00	\$331.00	\$331.00
Nebraska	270.00	270.00	400.00	400.00
Nevada	229.00	211.00	341.00	314.00
New Hampshire	292.00	292.00	392.00	392.00
New Jersey	273.00	273.00	414.00	414.00
New Mexico	178.00	178.00	267.00	267.00
New York	333.00	333.00	476.00	476.00
North Carolina	167.00	167.00	210.00	210.00
North Dakota	270.00	270.00	408.00	408.00
Ohio	284.00	216.00	431.00	327.00
Oklahoma	218.00	218.00	349.00	349.00
Oregon	281.00	281.00	376.00	376.00
Pennsylvania	273.00	273.00	395.00	395.00
Puerto Rico	132.00	75.00	228.00	130.00
Rhode Island	276.00	276.00	389.00	389.00
South Carolina	144.00	99.00	229.00	158.00
South Dakota	280.00	280.00	361.00	361.00
Tennessee	142.00	97.00	217.00	148.00
Texas	115.00	86.00	187.00	140.00
Utah	371.00	269.00	572.00	415.00
Vermont	558.00	410.00	753.00	553.00
Virgin Islands	154.00	154.00	263.00	263.00
Virginia	201.00	181.00	314.00	283.00
Washington	339.00	339.00	483.00	483.00
West Virginia	219.00	164.00	332.00	249.00
Wisconsin	443.00	377.00	622.00	529.00
Wyoming	280.00	280.00	340.00	340.00

*Amount is rounded to the next highest dollar